



STATE OF DELAWARE

**PUBLIC SERVICE COMMISSION**  
861 SILVER LAKE BLVD.  
CANNON BUILDING, SUITE 100  
DOVER, DELAWARE 19904

TELEPHONE: (302) 736-7500  
FAX: (302) 739-4849

July 14, 2017

**MEMORANDUM**

TO: The Chair and Members of the Commission

FROM: Shona Marshall, Public Utility Analyst 

SUBJECT: IN THE MATTER OF THE APPLICATION FREEPOINT ENERGY SOLUTIONS, LLC FOR A CERTIFICATE TO PROVIDE ELECTRIC SUPPLY SERVICES WITHIN THE STATE OF DELAWARE (SUBMITTED FEBRUARY 2, 2017; FILED JUNE 12, 2017) - PSC DOCKET No. 17-0070

---

**Background**

On February 2, 2017 Freepoint Energy Solutions, LLC (the “Company” or “Freepoint”) submitted an application (the “Application”) with the Delaware Public Service Commission (the “Commission”) for an Electric Supplier Certificate (“ESC”) to provide electric supply services in the State of Delaware pursuant to §1012 of the Electric Utility Restructuring Act of 1999, 26 *Del. C.* §1001 - §1020 (the “Act”) and 26 *Del. Admin. C.* §3001, the Commission’s Rules for Certification and Regulation of Electric Suppliers (the “Supplier Rules”).<sup>1</sup>

**Application**

The Company’s original filing was submitted on February 2, 2017 but the submitted Application did not meet the minimum filing requirements (MFR’s). In a letter dated February 27, 2017, Staff requested the Company file a copy of the Delaware business license, a PJM Welcome letter, acknowledgement from PJM of the Company’s name change, a copy of financial statements that have been certified within 12 months of 2/2/2017, professional resumes for Bradley Quester, Gordon Wright, Mary Nendza, and Wendy Lewis, and contract modifications. Staff also requested the Company publish public notices in two newspapers having general circulation throughout the state of Delaware. An affidavit of publication for the Delaware News Journal was filed March 15, 2017. In the response dated March 18, 2017, the Company provided answers to Staff’s questions, documents to support its Application, an affidavit of publication for the Delaware State Newspaper, and a revised customer contract. In a letter dated April 13, 2017, Staff informed the Company that the Commission’s rules for certification and regulation of electric suppliers, decided in Regulation 49 became effective on April 11, 2017 and the Application would need to comply with the revised Supplier Rules. The Company was provided with a listing of documentation needed to bring the Application into compliance. Staff also requested clarification for the information provided in the resumes of Bradley Questor and Mary

---

<sup>1</sup> Unless otherwise noted, all references to capitalized terms are set forth in the Act and/or the Supplier Rules.

Nendza. In a response dated May 2, 2017, the Company provided documentation in accordance with Staff's request. The Company also provided complaint information in accordance with the revised Supplier Rules and updated its customer service list to exclude serving small commercial customers. Staff inquired about the nature of the complaints, measures taken to prevent the issues from occurring, and the impact the complaints have had on customers. The company provided a response to this inquiry in a letter dated June 12, 2017. This information satisfies the MFR's for this Application.

### **Review and Analysis**

#### **Authority to do Business in Delaware**

The Company is a limited liability company formed under the laws of the state of Delaware. The Company provided proof issued by the Delaware Secretary of State that it is legally authorized and qualified to do business in the State of Delaware and it provided its Delaware business license issued March 20, 2017.

#### **Resident Agent**

The Company supplied the contact information for a Delaware Registered Agent listed in the application as Corporation Service Company, 251 Little Falls Drive, Wilmington, DE 19808.

#### **Compliance with Regional Requirements**

The Company provided proof of PJM membership.

### **Financial, Operational, Managerial and Technical Ability**

The Company provided unaudited copies of the Statement of Financial Position, Statement of Profit or Loss and Other Comprehensive Income, Statement of Cash Flows for the periods ended March 31, 2017 and December 31, 2016 as indicia of financial capability under Section 2.2.16 of the revised Supplier Rules. Staff believes that the confidential financial statements show evidence of the Applicant's ability to provide electric supply services in the State of Delaware.

The Company's initial Application stated the intention to serve Small Commercial, Large Commercial, and Industrial customers for the sale or purchase of electricity throughout the State of Delaware. However, on May 2, 2017, the Company submitted an updated customer class listing that excluded Small Commercial customers. The Company will be serving Large Commercial and Industrial customers. The Company is currently active in the following states: Illinois, Maine, Maryland, New York, Ohio, Pennsylvania, Rhode Island, and the District of Columbia. The Company is pending licensure in New Jersey and Texas. The Company anticipates pursuing licensure in the states of Connecticut, Massachusetts, and New Hampshire.

Pursuant to Section 2.2.20.1.4 of the revised Supplier Rules, the Company provided a list of five complaints lodged against Freepoint Commodities, LLC by CME Group and ICE Futures US, both electronic commodity trading platforms. Four of these complaints were related to inadvertently establishing a natural gas future while holding a contract in excess of the NYMEX spot market limit. In these instances, a trader employed by Freepoint Commodities, LLC facilitated trades of spot-month natural gas contracts during a period that Freepoint Commodities, LLC had signed a statement that it would not trade natural gas contracts. Staff inquired about the nature of these complaints and remedies that Freepoint Commodities, LLC had taken to prevent this issue from occurring in the future. Each incident was inadvertently carried out by a trader and self-reported by Freepoint Commodities, LLC. Freepoint Commodities, LLC has since been made aware of a software modification that would limit a trader's ability to make spot month trades, although it will not eliminate the ability altogether. Freepoint Commodities, LLC has also developed and implemented more warnings and requirements for additional configurations of software for its traders. The Company also disclosed that three of these instances resulted in a letter of warning being issued. A fine of \$7,500 was issued by Ice Futures US in

case number 2015-011. The Company did note that Freepoint Commodities, LLC does not have customers that these actions or subsequent penalties directly affect.

The Application included a summary of the key operating personnel of the Company. Bradley A. Quester is the President of Freepoint. He has over eleven years of managerial experience and thirteen years of experience in the energy industry. Mary Nendza is the Vice President of Operations for Freepoint. She possesses over twelve years of managerial experience and twenty years in the energy industry.

#### Performance Bond

The Company was not required by Delmarva Power & Light to provide a performance bond.

#### Financial Security

The Company did provide documentation of its guarantee provided by its parent company, Freepoint Commodities, LLC as required by Section 2.3 of the Supplier Rules.

#### Verification of Application

The original Application contained a signed sworn verification of application with the signature of Wendy Lewis, Authorized Signatory. Subsequent filings to the Application have also been verified by Wendy Lewis.

#### Consent to Jurisdiction

The Company consents to the jurisdiction of the Delaware courts.

#### Contracts

The Company will be serving Large Commercial and Industrial customers and are not required to submit sample contracts for these customer classes.

#### Statement of Criminal Activity

The Applicant stated that they have not been charged or convicted of any criminal activity nor have any of its principals or corporation offices. An internet review of the Company and its principal did not return any incidents of criminal activity.

#### Public Notice

The Company was advised that pursuant to Section 2.6 of the Supplier Rules, the Company is required to publish notice of its filing in two general circulation newspapers within the state of Delaware. The Company provided the appropriate affidavits of publication from each publication. Notice was published in the Delaware State News on March 7, 2017, and the News Journal on March 3, 2017. There were no interventions, protests, or comments filed in the docket within the 20-day notice period.

#### Legal Review

Staff submitted this Memo for review by the Attorney on July 18, 2017.

**Staff Recommendation**

Based on Staff's review and analysis of the Application, the Company has satisfied the requirements of the Act and the Supplier Rules. The Company has been very forthcoming in Staff's inquiries and resolved all outstanding issues. The Company gives no indication that issues, if any arise, will not be handled in a manner consistent with the respect and efficiency displayed to date. The completed Application supports the Company's request for certification. Staff's review and analysis of the Application submitted by the company demonstrates evidence of capability to render service based on the Company's financial, operational, managerial and technical abilities. Therefore, Staff recommends the Commission approve the Application.